

Case 11-37108-rld11 Doc 8 Filed 08/17/11
UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re) Case No. _____
)
) NOTICE OF **PRELIMINARY**
) HEARING ON MOTION
) FOR USE OF CASH COLLATERAL
) TO OBTAIN CREDIT
Debtor(s)) (Check One)

YOU ARE NOTIFIED THAT:

1. The undersigned moving party, _____, filed a Motion For Use of Cash Collateral To Obtain Credit (*check one*). A copy of the motion is attached; and it includes BOTH (i) the statement required by [Local Form #541.7](#), and (ii) the following allegations:

a. The immediate and irreparable harm that will come to the estate pending a final hearing is _____.

b. The amount of cash collateral credit (*check one*) necessary to avoid the harm detailed above prior to the final hearing is _____.

2. The name and service address of the moving party's attorney (or moving party, if no attorney) are: _____.

3. A **PRELIMINARY** HEARING on the motion WILL BE HELD ON _____ AT _____
IN _____.

Testimony will be received if offered and admissible.

4. If you WISH TO OBJECT to the motion, YOU MUST DO ONE OR BOTH OF THE FOLLOWING: (1) ATTEND the preliminary hearing; AND/OR (2) FILE with the Clerk of Court (i.e., if the 5-digit portion of the Case No. begins with "3" or "4", mail to 1001 SW 5th Ave. #700, Portland OR 97204; OR if it begins with "6" or "7", mail to 405 E 8th Ave #2600, Eugene OR 97401), BOTH: (a) a written response, which states the facts upon which you will rely, AND (b) a certificate showing a COPY of the response was given DIRECTLY TO the Judge, and served on the U.S. Trustee and the party named in pt. 2 above. See [Local Form #541.51](#) for details.

5. On _____ copies of BOTH this notice AND the motion were served pursuant to FRBP 7004 on the debtor(s); any debtor's attorney; any trustee; any trustee's attorney; members of any committee elected pursuant to 11 U.S.C. §705; any Creditors' Committee Chairperson [or, if none serving, on all creditors listed on the list filed pursuant to FRBP 1007(d)]; any Creditors' Committee attorney; the U.S. Trustee; and all affected lien holders whose names and addresses used for service are as follows:

Signature

(If debtor is movant) Debtor's Address & Taxpayer ID#(s) (last 4 digits)

Howard M. Levine, OSB No. 800730
Timothy A. Solomon, OSB No. 072573
1000 SW Broadway, Suite 1400
Portland, OR 97205-3089
Telephone: 503-227-1111
Facsimile: 503-248-0130
Email: hlevine@sussmanshank.com

Attorneys for Debtor and Debtor-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re	}	Case No. 11-37108-rld11
ERP-Link Corp.,		MOTION FOR ENTRY OF INTERIM
		AND FINAL ORDERS AUTHORIZING
Debtor.		USE OF CASH COLLATERAL

Pursuant to Section 363(c) of Title 11 of the United States Code (the "Bankruptcy Code"), Rule 4001(b) of the Federal Rules of Bankruptcy Procedures (the "Bankruptcy Rules"), and LBR 4001-2, the above-captioned Debtor and Debtor-in-Possession ("Debtor") moves this Court for (a) entry of the Interim Order Authorizing Use of Cash Collateral and Granting Adequate Protection attached hereto as Exhibit 1 (the "Interim Order"); and, (b) after final hearing held pursuant to Bankruptcy Rule 4001(b)(2), entry of a final order authorizing Debtor to use cash collateral during the pendency of its case. In support of its Motion, Debtor states as follows:

1. The Interim Order does not contain any of the provisions listed in the Court's Guidelines Regarding Motions to Use Cash Collateral or to Obtain Credit (Local Form 541.7).

Page 1 of 6 -MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
AUTHORIZING USE OF CASH COLLATERAL

BACKGROUND

2. On August 17, 2011 (the "Petition Date"), Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code").

3. Debtor is an independent software vendor that develops its own software which it sells to businesses. The software allows large corporate computer systems to integrate and "talk to" other systems which otherwise have incompatible software.

4. Debtor has continued in possession of its property and is continuing to operate and manage its business as debtor in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in this case.

5. The Court has jurisdiction over this matter pursuant to 28 USC §§ 157 and 1334. Venue is proper in this district pursuant to 28 USC §§ 1408 and 1409. This is a core proceeding pursuant to 28 USC § 157(b)(2)(M).

6. Debtor and Walter Weyler Jr. (the "Lender") are parties to a document entitled "Secured Promissory Note" dated September 8, 2008 as to which Lender filed a UCC-1 financing statement on September 9, 2010 (collectively, the "Loan Documents"). Pursuant to the Loan Documents, Lender asserts he holds a security interest in all of the assets described in the Loan Documents. Anderson Declaration, ¶ 13. Copies of the Loan Documents are attached hereto as Exhibit 2.

7. Debtor believes Lender asserts the balance due to him from Debtor is no less than \$208,090. The Debtor further believes Lender contends this amount is fully secured by the terms and provisions of the Loan Documents. Debtor disputes Lender's contention. Debtor contends, among other things, that the balance due is less than Lender asserts, and that not all of the Debtor's obligations to Lender are secured by the collateral described in the Loan Documents. *Id.* ¶ 14.

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AUTHORIZING USE OF CASH COLLATERAL

1 8. In order to operate its business until its assets are sold, Debtor will need to
2 use cash collateral in which Lender contends it has an interest. *Id.* ¶ 15.

3 9. The term “Lender’s Cash Collateral” means cash collateral as defined in
4 Section 363(a) of the Bankruptcy Code and includes, without limitation, all checks,
5 receipts, payments, proceeds, products, offspring, rents, or profits arising from the
6 prepetition or postpetition use, lease, sale, or disposition of the Debtor’s assets.

7 **RELIEF REQUESTED**

8 10. Debtor seeks to use the Lender’s Cash Collateral pursuant to
9 Sections 105(a) and 363(c)(1) and (2) of the Bankruptcy Code, the Budget attached to
10 the Interim Order, and the terms and conditions of the Interim Order, to pay his
11 continuing operating expenses, including his Chapter 11 administrative expenses.

12 11. The Debtor’s authority to use Cash Collateral is limited to the amounts set
13 forth in the Budget; provided, however, that the Debtor may make expenditures in
14 excess of said sums in the Budget so long as any variance shall not exceed 10% of the
15 cumulative expenses as set forth in the Budget, tested on a bi-weekly and monthly
16 basis. The Debtor may exceed such variances only with the prior written consent of the
17 Bank or by subsequently entered order of this Court. It is understood that the Bank may
18 assume that the Debtor will comply with this requirement and the Bank shall have no
19 duty to monitor such compliance.

20 12. Debtor has received an offer from Gimmel Holdings LLC (“Gimmel”) to
21 purchase substantially all of its assets, as more fully described in the Asset Purchase
22 Agreement dated August 16, 2011, and the proposed Notice of Intent to Sell Real or
23 Personal Property, Compensate Real Estate Broker, and/or Pay any Secured Creditor’s
24 Fees and Costs; Motion for Authority to Sell Property Free and Clear of Liens attached
25 as Exhibit C to Debtor’s Motion For Order: (A) Establishing Notice And Bidding
26 Procedures In Connection With A Contemplated Sale Of Assets To Gimmel Holdings

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AUTHORIZING USE OF CASH COLLATERAL

1 LLC; And (B) Scheduling An Auction filed contemporaneously herewith.

2 13. One of the requirements of the Asset Purchase Agreement is that the
3 Debtor continue to operate its business in the ordinary course. In order for the Debtor to
4 operate its business, it must use Lender's Cash Collateral. See Anderson Declaration,
5 ¶ 15.

6 **BASIS FOR RELIEF REQUESTED**

7 14. Debtor requires the use of the Lender's Cash Collateral to preserve the
8 value of Debtor's business as a going concern and to preserve and maintain the assets
9 of the bankruptcy estate. Without use of such cash collateral, Debtor will lack sufficient
10 funds to maintain his continuing operations and the Debtor will be unable to comply with
11 the terms of the Asset Purchase Agreement. *Id.* ¶ 16.

12 15. Debtor recognizes that the Lender's interests in the Lender's Cash
13 Collateral are entitled to adequate protection. See 11 USC § 363(e). Among other
14 forms of adequate protection, the Bankruptcy Code lists the provision of additional or
15 replacement liens. 11 USC § 361(2).

16 16. Exactly what constitutes adequate protection must be decided on a case-
17 by-case basis. See *In re Energy Partners, Ltd.*, 409 BR 211, 236 (Bankr SD Tex 2009)
18 (*citing MBank Dallas, N.A. v. O'Connor (In re O'Connor)*, 808 F2d 1393, 1396-97 (10th
19 Cir 1987)); *In re Martin*, 761 F2d 472, 476 (8th Cir 1985). The focus of the requirement
20 is to protect a secured creditor from diminution in the value of its interest in collateral
21 during the reorganization process. *Energy Partners*, 409 BR at 236.

22 17. The Lender will be adequately protected by the retention of the value of
23 the Debtor's business as a going concern, the Debtor's proposed sale of its assets and
24 business as a going concern to Gimmel or to a higher bidder, and the replacement of
25 the Lender's Cash Collateral with replacement cash collateral generated or collected
26 post-petition as more fully set forth in the weekly cash flow projections through the week

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AUTHORIZING USE OF CASH COLLATERAL

1 of November 1, 2011 described in Exhibit 3 attached hereto. As adequate protection for
 2 the diminution in the value of the Lender's cash collateral, the Interim Order attached
 3 hereto as Exhibit 1 grants the Lender a replacement lien in all of the Debtor's assets,
 4 whether acquired prior to or after the Petition Date. The replacement lien does not
 5 include any of the Trustee's avoidance powers under 11 USC §§ 544-550 inclusive.

6 18. The cash flow projections on Exhibit 3 demonstrate that with only one
 7 weekly exception, the Debtor will generate revenues in excess of the expenditures it will
 8 make. The Debtor anticipates that it will only need to use the Lender's Cash Collateral
 9 through the date of the closing of the sale to Gimmal or a higher bidder.

10 19. The Debtor's use of the Lender's Cash Collateral will enable the Debtor to
 11 pay the expenses of its business, and pay the administrative expenses of this
 12 Chapter 11 case.¹ Anderson Declaration, ¶ 17. The entry of the Interim Order will
 13 minimize disruption of Debtor's business operations, preserve the going concern value
 14 of Debtor's business, allow the Debtor to comply with the ordinary course operations
 15 provision of the Asset Purchase Agreement, and is in the best interest of Debtor's
 16 estate. Debtor cannot continue to operate his business, or preserve the value of his
 17 assets, without the use of the Lender's Cash Collateral on the terms set forth in the
 18 Interim Order. The value of the Debtor's business and assets, if sold other than as a
 19 going concern, is significantly less than the offer from Gimmal. Debtor will face
 20 immediate and irreparable harm if the relief requested is not granted. *Id.* ¶ 18.

21 20. It is in the best interests of Debtor, its creditors, and its estate for Debtor to
 22 use the Lender's Cash Collateral because the use of the Lender's Cash Collateral will

24 ¹ See *In re ProAlert, LLC*, 314 BR 436, 443 (BAP 9th Cir 2004) (Perris, J.) (holding that
 25 adequately protected secured creditor's cash collateral may be used to pay professional
 26 fees in addition to amounts potentially due under 11 USC § 506(c)); *Wrecclasham*
Grange, 221 BR at 982 (holding that postpetition rents could be used not only to
 maintain the property, but also to run debtor's business).

1 allow the continued operation of Debtor's business as a going concern, and will allow
2 the Debtor to comply with the ordinary course operations provision of the Asset
3 Purchase Agreement, thereby maximizing the recovery to creditors. Without use of the
4 Lender's Cash Collateral, Debtor's business operations will need to immediately cease.
5 *Id.* ¶ 19.

6 WHEREFORE, Debtor prays that this Court (a) enter the Interim Order attached
7 hereto as Exhibit 1; and (b) after final hearing held pursuant to Bankruptcy Rule
8 4001(b)(2), enter a final order authorizing Debtor to use the Lender's Cash Collateral
9 during the pendency of this case.

10 DATED this 17th day of August, 2011.

11 SUSSMAN SHANK LLP

12 */s/ Howard M. Levine*

13 By _____
14 Howard M. Levine, OSB No. 800730
15 Timothy A. Solomon, OSB No. 072573
16 Attorneys for Debtor and Debtor-in-Possession

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re

ERP-Link Corp.

Debtor.

Case No. 11-37108-rld11

INTERIM ORDER AUTHORIZING USE
OF CASH COLLATERAL AND
GRANTING ADEQUATE PROTECTION

This matter having come before the Court on _____, 2011 upon the Debtor's Motion For Entry Of Interim And Final Orders Authorizing Use Of Cash Collateral (the "Motion") for interim authority to use cash collateral (the "Cash Collateral"), due and adequate notice under the circumstances having been given, and the Court having heard the representations and argument of counsel, and being fully advised of the premises thereof,

NOW THEREFORE, THE COURT FINDS AS FOLLOWS:

Commencement of Case. On August 17, 2011 (the "Petition Date"), the Debtor filed a voluntary petition for relief with this Court, commencing a case (the "Chapter 11 Case") under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). Since the Petition Date, the Debtor has continued to manage and operate its properties

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GRANTING ADEQUATE PROTECTION

1 and business as a debtor in possession pursuant to sections 1107 and 1108 of the
2 Bankruptcy Code.

3 A. No Creditors' Committee. To date, the United States Trustee has not
4 appointed a committee pursuant to section 1102(a) of the Bankruptcy Code in this
5 Chapter 11 Case.

6 B. Jurisdiction and Venue. This Court has jurisdiction over these
7 proceedings and the parties and properties affected hereby pursuant to 28 U.S.C.
8 §§ 157(b) and 1334 and this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
9 Venue for proceedings on the Motion is proper in this Court pursuant to 28 U.S.C.
10 § 1409.

11 C. Prepetition Indebtedness to the and Security Therefor. Walter Weyler, Jr.
12 ("Lender") and the Debtor are parties to that certain Secured Promissory Note dated
13 September 8, 2008 (the "Note") pursuant to which Lender made certain loans. The
14 Note describes the collateral securing the obligations under the Note, which includes
15 the Debtor's accounts, inventory, general intangibles, and the proceeds of the foregoing
16 (collectively, the "Prepetition Collateral"). Lender contends that the Prepetition
17 Collateral secures all obligations of Debtor to Lender, totaling \$280,090. Debtor
18 contends Lender's lien is only secured to the extent of \$176,712 of the debt, and is
19 unsecured for the balance of \$103,378. The portion of the Prepetition Collateral in the
20 form of cash and cash equivalents, and all cash proceeds of the Prepetition Collateral
21 received after the commencement of this Chapter 11 Case, shall all constitute Cash
22 Collateral as defined above.

23 D. Necessity of Financing and Use of Cash Collateral. The Debtor's sole
24
25
26

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GRANTING ADEQUATE PROTECTION

1 source of revenue is cash, including Cash Collateral, and it is necessary for the Debtor
2 to pay operating expenses pending the Court's approval and entry of a final order
3 and/or any subsequent interim cash collateral orders and budgets during this
4 Chapter 11 Case. Use of Cash Collateral to pay expenses as set forth in the budget
5 attached hereto as Exhibit A (the "Budget") pending a final hearing is necessary to avoid
6 immediate and irreparable harm to the estate.
7

8 E. Cause. Entry of this Order will minimize disruption of the Debtor's
9 business, preserve the value of the Debtor's assets as a going concern, and is in the
10 best interests of the Debtor, its creditors, and its estate.

11 F. Notice. Notice of the hearing and the relief requested in the Motion has
12 been given to (a) the Office of the United States Trustee, (b) the Lender, (c) the
13 creditors holding the 20 largest unsecured claims against the Debtor, and (d) all parties
14 requesting special notice pursuant to Bankruptcy Rule 2002. Sufficient and adequate
15 notice of the hearing and the relief requested in the Motion has been given pursuant to
16 all applicable provisions of the Bankruptcy Code and the Bankruptcy Rules, including,
17 without limitation, section 102(1) of the Bankruptcy Code and Bankruptcy Rules 2002
18 and 4001.
19

20 **NOW THEREFORE**, it is hereby ORDERED as follows:
21

22 1. The Debtor is authorized to use Cash Collateral until the Termination Date
23 (as defined below), solely in accordance with the terms of this Order to pay costs and
24 expenses incurred by the Debtor in the ordinary course of its business, consistent with
25 the Budget.

26 2. The Debtor's authority to use Cash Collateral is limited to the amounts set
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GRANTING ADEQUATE PROTECTION

1 forth in the Budget; provided, however, that the Debtor may make expenditures in
2 excess of said sums in the Budget so long as any variance shall not exceed 10% of the
3 cumulative expenses as set forth in the Budget, tested on a bi-weekly and monthly
4 basis. The Debtor may exceed such variances only with the prior written consent of the
5 Lender or by subsequently entered order of this Court.
6

7 3. The Debtor shall not borrow money from any person or entity on a
8 secured basis without first obtaining authority from the Court and consent from the
9 Lender.

10 4. The Debtor's authority to use Cash Collateral, without further order of the
11 Court issued after notice and hearing or the written consent of the Lender, shall
12 automatically expire upon the earlier of (a) September __, 2011, or (b) regardless of
13 whether the Debtor has expended the entire amount set forth in the Budget, the failure
14 by the Debtor to comply with any provision of this Order (such failure being an "Event of
15 Default"), which failure is not remedied within five business days after delivery of notice
16 of such failure by the Lender to the Debtor (the earlier of such dates, the "Termination
17 Date"). Upon the Termination Date, the Debtor's authority to use or spend any further
18 Cash Collateral shall automatically terminate unless and until the Debtor obtains the
19 written consent of the Lender or a further order of this Court authorizing such use,
20 issued after notice and an opportunity for a hearing; provided, however, that
21 notwithstanding the occurrence of the Termination Date, the Debtor shall be authorized
22 to use Cash Collateral to pay those budgeted amounts that have been incurred prior to
23 the Termination Date.
24
25

26 5. As adequate protection for any Cash Collateral used by the Debtor,
Page 4 of 7 - INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL AND
GRANTING ADEQUATE PROTECTION

1 Lender is hereby granted, pursuant to sections 361(1) and 363(e) of the Bankruptcy
2 Code, a perfected lien (the "Replacement Lien") to secure an amount of Lender's
3 prepetition claims, up to the allowed amount of Lender's prepetition secured claim,
4 equal to the extent of any diminution in value of the Prepetition Collateral (the
5 "Diminution") by reason of the use of Cash Collateral authorized herein. The
6 Replacement Lien shall not improve Lender's position or increase the amount of
7 Lender's allowed prepetition secured claim. The Replacement Lien shall attach to all
8 property and assets of the Debtor and its estate, of the same kind or nature as the
9 Prepetition Collateral, whether now owned or hereinafter acquired by the Debtor, and all
10 products, proceeds, rents, issues or profits thereof; provided, however, the
11 Replacement Lien shall not attach to property recoverable or recovered through the
12 exercise of the powers granted under sections 506(c), 544, 545, 547, 548 and 549 of
13 the Bankruptcy Code. Granting this security interest to Lender is for the sole purpose of
14 providing adequate protection to Lender to protect its allowed secured claim on the
15 Petition Date and is not intended, nor shall it be deemed, to improve the collateral
16 position of as of the Petition Date.

17
18
19 6. The Replacement Lien shall be in addition to all other security interests
20 and liens securing Lender's allowed secured claim in existence on the Petition Date.
21 Additionally, nothing in this Order shall abridge or limit Lender's security interest in
22 proceeds, products, or profits to the extent provided under section 552 of the
23 Bankruptcy Code.

24
25 7. The Replacement Lien hereunder shall at all times be senior to the rights
26 of the Debtor and any successor trustee or estate representative in this case or any
Page 5 of 7 - INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL AND
GRANTING ADEQUATE PROTECTION

1 subsequent cases or proceedings under the Bankruptcy Code.

2 8. The Replacement Lien granted to Lender by this Order shall be perfected
3 and enforceable by operation of law upon execution and entry of this Order by the Court
4 without regard to whether such security interests and liens are perfected under
5 applicable non-Bankruptcy law.
6

7 9. To the extent the Replacement Lien proves to be inadequate as adequate
8 protection for the Diminution, as further partial adequate protection, Lender shall and
9 hereby does hold an administrative claim under section 503(b) of the Bankruptcy Code.

10 10. In the event of the occurrence of an Event of Default, and at all times
11 thereafter, Lender may seek relief from the Court on five business days written notice to
12 the Debtor to, among other things, (a) terminate forthwith Lender's agreement to allow
13 the Debtor to use all or any portion of the Cash Collateral and (b) terminate the
14 automatic stay imposed by section 362(a) of the Bankruptcy Code for the purpose of
15 exercising 's rights under the Loan Agreement.
16

17 11. This Order, and each of its terms, shall be effective immediately upon
18 entry by the Court and the automatic stay of judgment provisions of Bankruptcy Rule
19 8017(a) shall not apply.
20

21 12. A final hearing on the Debtor's Motion for Authority to Use Cash Collateral
22 shall be held by the Court in Courtroom _____ of the United States Bankruptcy Court for
23 the District of Oregon, 1001 SW Fifth Avenue, 7th Floor, Portland, Oregon 97204, on
24 September __, 2011 at __:__ .m. or as soon thereafter as counsel may be heard.
25 Within three (3) business days after the entry hereof, the Debtor shall mail or otherwise
26 serve a copy of this Order, together with a notice of the final hearing, pursuant to LBR
Page 6 of 7 - INTERIM ORDER AUTHORIZING USE OF CASH COLLATERAL AND
GRANTING ADEQUATE PROTECTION

1 4001-1.D and LBF 541.50.

2 # # #

3
4 PRESENTED BY:

5 SUSSMAN SHANK LLP

6
7
8 By: _____
9 Howard M. Levine, OSB No. 800730
Attorneys for Debtor
hlevine@sussmanshank.com

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11 cc: ECF Participants
12 List of Interested Parties

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GRANTING ADEQUATE PROTECTION

Secured Promissory Note between ERP-Link and Walt Weyler

SECURED PROMISSORY NOTE

\$100,000

September 8, 2008
Portland, Oregon

FOR VALUE RECEIVED, **ERP-Link**, an Oregon Company, of 310 SW 4th Ave, Portland Oregon 97204 (the "Seller") ("Maker"), promises to pay to the order of Walter Weyler, Jr., an individual residing at 2135 SW Altadina Court, Portland, OR 97219 ("Lender"), the aggregate unpaid principal amount of all loans (each a "Loan" and collectively, the "Loans") shown on the attached **Schedule A** to this Secured Promissory Note (this "Note"), which amount shall not exceed One Hundred Thousand Dollars (\$100,000), in lawful money of the United States, with accrued interest thereon, payable in the manner and on the terms hereinafter set forth.

1. **Loans.** From the date September 8, 2008 until December 1, 2008 (the "End Date"), Lender will make Loans to Maker in an aggregate principal amount not to exceed \$100,000. Each Loan shall be requested in writing (delivered by post, facsimile or email in portable document format), by a person authorized to act on behalf of Maker, at least one (1) business day prior to disbursement, and include the requested amount, disbursement date, and signature of Maker. Each Loan shall be subject to the terms and conditions of this Note. Lender shall at no time have any obligation to lend more under this Note than is then outstanding and each and every Loan shall be within the sole discretion of Lender. Each Loan, and all payments made on account of the principal of each Loan, shall be recorded by Lender in its records and endorsed on the grid attached hereto as **Schedule A**; provided, that the failure to so record any such amount or any error in so recording such amount shall not limit or otherwise affect the obligations of Maker to repay the principal amount of the Loans together with all interest accruing thereon. Subject to the terms hereof, amounts borrowed under this Note can be repaid and re-borrowed from time to time, up to the End Date.

2. **Interest.** Interest shall accrue on the unpaid principal balance outstanding under this Note, and on any interest not paid when due, at the rate of twenty-five percent (25%) per annum, compounded daily and computed on the basis of a 360-day year and actual days elapsed, from the date of this Note and continuing until all sums due hereunder are paid in full. Upon funding, Maker shall pay Lender additional interest in the amount equal to fourteen points or (14%) to cover legal, accounting and management costs. It is the intent of the parties that the rate of interest and the other charges to Maker under this Note shall be lawful; therefore, if for any reason the interest or other charges payable under this Note are found by a court of competent jurisdiction, in a final determination, to exceed the limit that Lender lawfully may charge Maker, then the obligation to pay interest and other charges shall be reduced automatically to such limit and, if any amount in excess of such limit shall have been paid, then such excess amount shall be refunded to Maker.

3. **Maturity.** Maker shall repay the entire unpaid principal balance of this Note, together with all accrued but unpaid interest thereon, on or before the End Date; provided, however, that, at any time, upon written demand by Lender, the "Maturity Date", the entire unpaid principal balance hereof, and all accrued but unpaid interest thereon, shall become immediately due and payable within 60 days of such written demand. All payments under this Note shall be made to Lender at its address above or at such other address as Lender may

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Secured Promissory Note between ERP-Link and Walt Weyler

designate in writing to Maker, and shall be applied first to pay accrued interest and second to repay principal.

4. Prepayment. Maker may prepay all or any portion of the balance outstanding under this Note at any time without penalty. Any such prepayment shall be applied first to pay interest accrued to the date of prepayment and second to reduce the principal balance.

5. Grant of Security Interest. Maker grants and pledges to Lender a continuing security interest in the collateral set forth on Exhibit A hereto (the "Collateral") in order to secure the timely repayment of the obligations evidenced hereby and any and all other obligations of Maker to Lender in connection with this Note. Such security interest constitutes a valid security interest in the Collateral. Maker agrees to execute such financing statements and to take whatever other actions are requested by Lender to perfect and continue Lender's security interest in the Collateral. Maker authorizes Lender to file one or more financing statements describing the Collateral in any and all jurisdictions where, and with any and all governmental authorities with whom, the Lender deems such filing to be necessary or appropriate including, without limitation, the Secretary of State for the State of Oregon. Upon an Event of Default (as defined below), Lender shall have all the rights of a secured party under the Oregon Uniform Commercial Code. In addition, Lender may exercise his rights to collect the accounts receivable included in the Collateral and to notify account debtors to make payments directly to Lender for application to outstanding obligations evidenced hereby and Lender may demand, collect, receipt for, settle, compromise, adjust, sue for, foreclose or realize on the Collateral as Lender may determine. Lender shall have, and may exercise, any and all other rights and remedies he may have available at law, in equity or otherwise.

6. Representations and Warranties. Maker hereby represents and warrants to Lender that:

- (i) Maker has good and marketable title to the all Collateral, free and clear of any liens or encumbrances, and such Collateral;
- (ii) All inventory is salable in the normal course of business subject to a reserve for obsolescence;
- (iii) Maker is duly organized and validly existing as a corporation under the laws of the state of Oregon, and is in good standing as a corporation and qualified to do business in each state in which the nature of its business or property so requires;
- (iv) Maker has the corporate power and authority and is duly authorized to execute and deliver this Note;
- (v) Maker's execution and delivery of this Note do not violate its Articles of Incorporation or Bylaws and do not constitute a breach of any agreement to which Maker is bound;
- (vi) There are no actions or proceedings pending or, to the knowledge of Maker, threatened against Maker that would reasonably be expected to (a)

OK
 9/5/11

Secured Promissory Note between ERP-Link and Walt Weyler

result in any material adverse change in Maker's financial or business condition or (b) adversely affect any of Maker's assets, including the Collateral; and

- (vii) The accounts receivable included in the Collateral represent bona fide transactions made in the ordinary course of Maker's business; such accounts receivable are current and collectible, net of the respective reserves shown on Maker's balance sheet (which reserves are adequate and calculated consistent with past practice); each such account receivable will be collected in full, without any setoff, within sixty (60) days after the day on which it first becomes due and payable; and there is no contest, claim, defense or right of setoff under any contract with any account debtor of such accounts receivable relating to the amount or validity of such accounts receivable.

7. Covenants. Maker shall not at any time, without Lender's prior written consent, which shall not be unreasonably withheld:

- (i) sell, lease or otherwise dispose of or transfer any material portion of the Collateral, other than in the ordinary course of its business;
- (ii) grant security interests in the Collateral, other than those existing on the date hereof and disclosed to Lender pursuant to paragraph 7(i) above or those granted pursuant to this Note;
- (iii) declare or pay any dividend to its shareholders;
- (iv) Permit the aggregate principal balance of Loans under this Note to exceed 70% of the balance of Maker's Liquid Accounts Receivable and Liquid Inventory. "Liquid Accounts Receivable" shall be determined as that which is less than sixty (60) days beyond the agreed upon customer terms based on an Accounts Receivable aging schedule that is dated no more than seven (7) days prior to the date of measurement to occur at least weekly. Inventory is valued at the incremental landed cost of goods including manufacturing and shipping costs but excluding warehousing and overhead. "Liquid Inventory" is that which can be sold in the next one hundred (100) days based on the sales rate for the last three months or the entire sales history (whichever is smaller).

8. Default. The occurrence of any one of the following events shall constitute a default by Maker (an "Event of Default") under this Note:

- (i) Maker's failure to pay any amount due hereunder within ten (10) days after the date that such amount is due and payable;
- (ii) Any warranty or representation of Maker to Lender herein proves to have been false or misleading in any material respect when made;

Secured Promissory Note between ERP-Link and Walt Weyler

- (iii) Maker's failure to comply with any covenant or other obligation under this Note; or
- (iv) A proceeding under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt or receivership law or statute is filed against Maker, which is not dismissed within sixty (60) days of its filing, or a proceeding under any bankruptcy, reorganization, arrangement of debt, insolvency, readjustment of debt or receivership law or statute is filed by Maker or Maker makes an assignment for the benefit of creditors.

9. Acceleration. Upon the occurrence of an Event of Default hereunder, (i) without demand, notice or legal process of any kind, all outstanding principal and accrued and unpaid interest hereunder by Maker shall immediately become due and payable in full, and (ii) Maker shall pay all costs of enforcement and collection, including, without limitation, reasonable attorneys' fees and costs incurred by Lender, whether or not enforcement and collection includes the filing of a lawsuit, and whether or not that lawsuit is prosecuted to judgment. The costs of enforcement and collection shall be added to the principal amount of the Note and shall accrue interest from the date incurred by Lender to the date paid by Maker, at the interest rate specified in paragraph 2 hereof.

10. Waiver. Maker, except as otherwise specifically set forth herein, for itself and for its successors, transferees and assigns, hereby irrevocably waives diligence, presentment and demand for payment, protest, notice, notice of protest and nonpayment, dishonor and notice of dishonor and all other demands or notices of any and every kind whatsoever. Maker hereby agrees that this Note and any or all payments coming due hereunder may be extended from time to time in the sole discretion of Lender hereof without in any way affecting or diminishing Maker's liabilities hereunder.

11. Attorney Fees. Maker agrees to pay, upon Lender's demand therefore, any and all costs, fees and expenses (including reasonable attorneys' fees, costs and expenses) incurred by Lender in enforcing any of Lender's rights hereunder, including without limitation those incurred at trial and on appeal.

12. Severability. In the event any one or more of the provisions of this Note shall for any reason be held to be invalid, illegal or unenforceable, in whole or in part or in any respect, or in the event any one or more of the provisions of this Note operates or would prospectively operate to invalidate this Note, then, and in either of such events, such provision or provisions only shall be deemed null and void and shall not affect any other provision of this Note, and the remaining provisions of this Note shall remain operative and in full force and effect.

13. Notices. Any notice, demand or request required or permitted to be given under this Note must be in writing and will be deemed given at the time it is (i) personally delivered to recipient; (ii) deposited in the mail or delivered to a common carrier or courier with regularly scheduled deliveries with first-class postage or delivery charges prepaid, in either case addressed to a party at the address shown above for such party, or at such other address as any party may designate by ten (10) days' advance written notice to the other party; or (iii) actually transmitted to recipient using electronic means.

Walt Weyler
 8/15/11

Secured Promissory Note between ERP-Link and Walt Weyler

14. Transfer Restriction. This Note may be pledged, transferred, assigned or sold by Lender, subject to relevant federal and state securities laws.

15. Governing Law. This instrument shall be governed by and construed in accordance with the laws of the State of Oregon, without giving effect to the conflict of law principles thereof.

IN WITNESS WHEREOF, the undersigned has executed this Note as of the date set forth above.

ERP-Link Corp.



By: Eric Anderson
Title: President

C DEBTOR FIDUCIARY SUM WITH WYVIE

SCHEDULE A TO
PROVISIONARY NOTE

PAYMENTS OF PRINCIPAL

AMOUNT OF PRINCIPAL REPAYED	UNPAID Principal BALANCE
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Secured Promissory Note between LRP-Link and Walt Weyler

EXHIBIT A TO
SECURED PROMISSORY NOTE
DESCRIPTION OF COLLATERAL

As used in the Note, the term "Collateral" shall mean:

(i) all of the property and assets of Maker, tangible and intangible, real and personal, including, but not limited to, all

(a) cash;

(b) accounts, accounts receivable, contract rights, general intangibles, chattel paper, notes, drafts, acceptances, and all other debts, obligations and liabilities in whatever form owing to Maker from any person, firm, corporation or other legal entity;

(c) inventory;

(d) machinery and equipment;

(e) software, source code and related documentation;

(f) patents, copyrights, trademarks, trade secrets, and other intellectual property used, registered or applied for, including all Maker's registered and filed patents including but not limited to design and utility patents,

(g) real property and leases, wherever located, including any fixtures related thereto

in each case whether now existing or hereafter arising or acquired;

(ii) all replacements of the property and assets referenced in clause (i), the ownership of which is acquired by Maker after the date of the Note; and

(iii) all the proceeds or products of the foregoing.

EA
9/5/08

Secured Promissory Note between ERP-Link and Walt Weyler

EXHIBIT B TO
SECURED PROMISSORY NOTE

LIST OF MAKER'S INDEBTEDNESS FOR
BORROWED MONEY

1. Indebtedness pursuant to this Amended and Restated Secured Promissory Note.
2. Unsecured Indebtedness in the principal amount of \$13,770.00 pursuant to that certain Promissory Note dated 12/27/07, by and between Maker and Ed Brown Series C Shareholder. The maturity date of the Promissory Note, is 6/30/09 with interest at a rate of 17% and 3 payments beginning 6/30/08 and every 6 months thereafter concluding on the maturity date.
3. Unsecured Indebtedness in the principal amount of \$27,540.00 pursuant to that certain Promissory Note dated 12/27/07, by and between Maker and Farrell Peterson, ERP-Link Series C Shareholder. The maturity date of the Promissory Note, is 6/30/09 with interest at a rate of 17% and 3 payments beginning 6/30/08 and every 6 months thereafter concluding on the maturity date.
4. Unsecured Indebtedness in the principal amount of \$145,000 plus accrued interest, pursuant to that certain Verbal Promissory Note dated March 2008 by and between Maker and Lynn Miller, a ERP-Link Shareholder. The maturity date of the Promissory Note, is September 2009 with interest at a rate of 10% and principle payments as the company can afford, but concluding on the maturity date. (email documentation attached)
5. Unsecured Indebtedness in the principal amount of \$25,000 pursuant to one convertible warrants promissory note by and between Maker and Doug and Mary Sater, a ERP-Link Series C shareholder, with interest at a rate of 17% and with a final maturity date of 09/30/08.
6. Personal Indebtedness in the approximate amount of \$128,000 pursuant to personally guaranteed credit card debt used for the companies purposes and owed to various Credit Card Companies.

W
9/5/08

State of Oregon
Initial Filing 2 Page(s)

9033133609

8077980
09/10/08 11:04 AM
OR Sec. of State**UCC FINANCING STATEMENT**

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)



P.O. Box 12054, Salem, OR 97309-0054

Ref: 1092

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME ERP-Link Corp.					
OR	1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS 310 SW 4th Avenue, Suite 400			CITY Portland	STATE OR	POSTAL CODE 97204
1d. SEE INSTRUCTIONS			1e. TYPE OF ORGANIZATION corporation	1f. JURISDICTION OF ORGANIZATION Oregon	
ADD'L INFO RE ORGANIZATION DEBTOR			1g. ORGANIZATIONAL ID #, if any OR#619799-86		
			<input type="checkbox"/> NONE		

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME					
OR	2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS			CITY	STATE	POSTAL CODE
2d. SEE INSTRUCTIONS			2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	
ADD'L INFO RE ORGANIZATION DEBTOR			2g. ORGANIZATIONAL ID #, if any		
			<input type="checkbox"/> NONE		

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE OF ASSIGNOR S/P) - Insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME					
OR	3b. INDIVIDUAL'S LAST NAME Weyler		FIRST NAME Walter	MIDDLE NAME	SUFFIX Jr.
3c. MAILING ADDRESS 2135 SW Altadina Court			CITY Portland	STATE OR	POSTAL CODE 97219
			COUNTRY U.S.A.		

4. This FINANCING STATEMENT covers the following collateral:

See attached Exhibit A for a description of the collateral.

5. ALTERNATIVE DESIGNATION (if applicable): ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING6. ☐ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS.
Attach Addendum (if applicable)

7. See instruction Debtor(s)

8. OPTIONAL FILER REFERENCE DATA

File with Oregon Secretary of State; 29424/3

401 FILING OFFICE COPY — NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 9/05)

Exhibit

2

Page 9 of 10

Exhibit A to UCC Financing Statement

Debtor: ERP-Link Corp.

Secured Party: Walter Weyler, Jr.

The collateral covered by this financing statement is the following:

- (i) all of the property and assets of Debtor, tangible and intangible, real and personal, including, but not limited to, all
 - (a) cash;
 - (b) accounts, accounts receivable, contract rights, general intangibles, chattel paper, notes, drafts, acceptances, and all other debts, obligations and liabilities in whatever form owing to Debtor from any person, firm, corporation or other legal entity;
 - (c) inventory;
 - (d) machinery and equipment;
 - (e) software, source code and related documentation;
 - (f) patents, copyrights, trademarks, trade secrets, and other intellectual property used, registered or applied for, including all of Debtor's registered and filed patents, including but not limited to design and utility patents; and
 - (g) real property and leases, wherever located, including any fixtures related thereto
- in each case whether now existing or hereafter arising or acquired;
- (ii) all replacements of the property and assets referenced in clause (i), the ownership of which is acquired by Debtor after September 8, 2008; and
- (iii) all the proceeds or products of the foregoing.

ERP-Link Cash Flow Projection

August 15 thru Nov 1, 2011

	<i>up to</i> 1-Sep	<i>Sep 1 thru</i> 15-Sep	<i>Sep 15 thru</i> 1-Oct	<i>October 1 thru</i> 15-Oct	<i>Oct 15 thru</i> 1-Nov	
Cash-In						
PharmaScience or Toro				26000		Pending
Seion or Frequentis					26,000	Pending
Cornell or EADS				33000		Pending
ceradyne		3200	2100	8000		
Sauer Danfoss renew		10500				
Miami Dade Renew		10500				
Janus Funds		11400	4800			
OPG	9400					
Aptar		10500	850			
Monsanto			18126	1600		
Borg Warner	28600					
Tyson's			1400			
siemens				3500	39,000	Pending
Neudesic		2000				

total in	38,000	48,100	27,276	72,100	65,000	
Beginning Cash Balance	21230					
cash out	25175	44725	31425	31725	29725	

Total pending new
124,000 orders

Balance left	21,230	34,055	37,430	33,281	73,656	108,931
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Cash Out - detail

Tech CFO	900		900		900
Sterling Communications	1250		1250		1250
Regence Health Plan		2400		2400	
Gustavo Velez 1099	4125	4125	4125	4125	4125
Chris Kruell 1099	1250	1250	1250	1250	1250
Payroll	14800	14800	14800	14800	14800
5th & Washington Rent	750		750		750
Verizon	350		300		300
misc	250	250	250	250	250
business development	1500	1500	1500	1500	1500
norikkon	0	7500	6300	7400	4600
SAP		12900			

Ater Wynne LLP
1331 NW Lovejoy St.,
Suite 900
Portland, OR 97209-3280

Battle Mountain Properties
662 N 2600 W
Mesquite, NV 89027

Chase Cardmember Service
P O Box 94014
Palatine, IL 60094-4014

Christopher Kruell
P O Box 10061
Portland, OR 97296

Citi
P O Box 6500
Sioux Falls, SD 57117-6500

Douglas D. Sater
826 Bandolier Lane
Washington, UT 84780

Farell Petersen
1112 Goldenrod Circle
St. George, UT 84790

Geffen Mesher & Co. PC
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Portland, OR 97204

Gimmel Group
2400 Greenway Plaza, Suite 800
Houston, TX 77046

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Walled Lake, MI 48390

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PMB# 683
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Sweden

Josef Leicht
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Castle Rock, CO 80104

Walter Weyler, Jr.
2135 SW Altadina Ct.
Portland, OR 97219

Internal Revenue Service
P O Box 7346
Philadelphia, PA 19101-7346

The Attorney General of USA
Department of Justice
10th & Constitution NW
Washington, DC 20530

Internal Revenue Service MS240
100 SW Main St., Suite 1200
Portland, OR 97204-2871

Oregon Dept. of Revenue
ODR Bankruptcy
955 Center St.
Salem, OR 97301

Oregon Attorney General
Department of Justice
1162 Court St. NE
Salem, OR 97301

State of California
Franchise Tax Board
P O Box 942857
Sacramento, CA 94257

Consumer Law, Attn: Bankruptcy
CA Atty General Office
455 Golden Gate Ave, Ste 11000
San Francisco, CA 94102

State of Colorado
Department Of Revenue
1375 Sherman St.
Denver, CO 80261

Office of the Attorney General
Colorado
1525 Sherman St., 7th Flr.
Denver, CO 80203

State of Florida
5050 West Tennessee St.
Tallahassee, FL 32399

Office of the Attorney General
State of Florida
The Capital L-01
Tallahassee, FL 32399-1050

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P O Box 929
Trenton, NJ 08646-0929

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State of New Jersey
P O Box 080
Trenton, NJ 08625-0080

State of New York
P O Box 1909
Albany, NY 12201-1909

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The Capital
Albany, NY 12224-0341

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301 Gervais St.
P O Box 125
Columbia, SC 29214

The Honorable Alan Wilson
Attorney Generals Office
P O Box 11549
Columbia, SC 29211

Pacific Power
Attn. Its Representative
CT Corporation System
388 State St. Suite 420
Salem, OR 97301

Sterling Communications, Inc.
Attn. Its Representative
Tom Gillihan
14945 SW Sequoia Pkwy, #110
Portland, OR 97224

Verizon Wireless Services, LLC
Attn. Its Representative
CT Corporation System
388 State St. Suite 420
Salem, OR 97301

Mark Finkelstein
Shannon, Martin, Finkelstein &
Alvarado, P.C.
1001 McKinney Street, Suite 1100
Houston, TX 77002-6424

ERP-Link Corp.
510 SW Fifth Ave.
Suite 200
Portland, OR 97204

SEC

Attn: Bankruptcy Counsel
5670 Wilshire Blvd., 11th Floor
Los Angeles, CA 90036